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Jeffrey R. Farr

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER

OWYANG, MICHELLE N

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/591,348	Applicant(s) FARR ET AL.	
	Examiner MICHELLE OWYANG	Art Unit 2168	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 15-24 and 26-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 15-24 and 26-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/24/2008</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The action is responsive to the Applicant's amendment filed on 11/24/2008, with claims 1-13, 15-24, 26-27 amended, and claims 14, 25 cancelled, and claims 28-30 newly added.

Claims 1-13, 15-24, 26-30 are pending in this application.

Information Disclosure Statement

2. The information disclosure statement filed 11/24/2008 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the listed U.S. application number does not correspond to the listed inventor name, and the listed application is not relevant to the pending application. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the following claimed subject matter, "receiving rating data from said particular user relating to data items provided to the user" recited in claims 1, 15, 27-29.

See 37 CFR 1.75(d)(1) and MPEP § 608.01(o).

Claim Objections

4. The following claims are objected to for lack of antecedent basis:

- a. “the servicing step”, claims 2, 16, 27;
- b. “the available data items”, claim 2,16;
- c. “the requesting user”, claim 3;
- d. “the request”, claim 6;
- e. “the time”, claims 9, 23;
- f. “the stored content items", claim 10;
- g. “the service level value”, claim 12;
- h. "the rating user", claim 12;
- i. "the which first data item", claim 22;
- j. “the difference”, claim 22.

5. Claim 24 is objected to because of the following informalities: it is suggested to change “...steps: - permit...” to “...steps: permit...”.

Claim Rejections - 35 USC § 101

6. In view of the claimed amendment filed on 11/24/2008, the claim rejections made under 35 USC 101 as set forth in the previous office action are hereby withdrawn.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-13, 15-24, and 26-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claims 1, 15, 27-30, “receiving rating data from said particular user relating to data items provided to the users” is not clearly understood rendering the claims indefinite. According to the specification, the rating is given by the users to the provided data, see Page 9, lines 15-18; since "the particular user" is recited as the provider who provides data items to the users, it is unclear how "the particular user" provides the rating data, which is recited as "receiving rating data from said particular user relating to data items provided to the users" in the claims.

With respect to claim 15, "data receiving means arranged in use to receive: data items or from a particular user for provision upon request to users (lines 2-3)" is not clearly understood rendering the claim indefinite. It is unclear whether it is referred to “data receiving means arranged in use to receive: data items from a particular user for provision" or “data receiving means arranged in use to receive: from a particular user for provision". In addition, “data receiving means arranged in user to receive: (line 12)" is not clearly understand rendering the claim indefinite. It is unclear whether it includes additional limitations or not.

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With respect to claims 3 and 17, "the requesting user" is not clearly understood rendering the claims indefinite. It is unclear whether "the requesting user" is referred to "the particular user" or "the users" recited in claims 1 and 15, respectively.

Any claim not specifically addressed, above, is being rejected as incorporating the deficiencies of a claim which it depends.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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8. Claims 1-13, 15-24, 26-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gupta et al, "A Frequent-Sharer Program for Peer-to-Peer Systems", hereinafter Gupta, in view of Moskowitz et al. (Pub No. US 2003/009570 A1), hereinafter Moskowitz.

Gupta is cited by the Applicant in the IDS and also cited by the Examiner in the previous office action.

With respect to claim 1, Gupta discloses a data provisioning method (*frequent sharer program for peer to peer systems, peer to peer system associates with data provision, Page 1, Title*), comprising the steps:

receiving data items from a particular user for provision to users (*receiving contribution from the user, the contribution association with data item associate with access, Page 2, right Col. Part III, Accounting Component, lines 5-6*);

storing the data items for provision to the user (*the account component keeps track of the contribute made for data provision to user, the contribute made associates with the data items and the data defining access to the data item, Page 1, right Col. Part II, lines 3-4*);

maintaining, for at least one user, one or more users, respective service level data usable to determine a level of service to be provided to the users (*maintain the level of service provide to the user, e.g. basic, enhanced, premium, Page 1, right Col. part II, lines 13-21, Fig 1 & 4*);

changing the respective service level data for the users from which data items were received in dependence upon received rating data relating to the received data items (*changing the level of service from basic to enhanced or premium based on the pointes accumulated, the*

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points accumulated associate with rating, Page 2, right Col. Part III, Accounting Component, lines 6-7, Fig 4); and

providing service to said particular user in dependence on the service level data for said particular user (*provide the service to the user based on the level of service, Page 4, left Col. lines 14-27, Fig 4*).

Gupta does not explicitly disclose

receiving rating data from said particular user relating to data items provided to the users.

However, Moskowitz discloses receiving rating data from said particular user relating to data items provided to the users (*reviewers are assigned rating by based upon other members, the reviewer and members are correspond to the users relating to the data items, [0053], lines 18-30*).

It would have been obvious to one skilled in the art at the time of the invention to modify the user rating techniques of Moskowitz in the data provision method of Gupta in order to improve communication management within a peer to per network data processing system (*Moskowitz, [0008]*).

With respect to claim 15, Gupta discloses a data provisioning system (*frequent sharer program for peer to peer systems, peer to peer system associates with data provision, Page 1, Title*), comprising:

data receiving means arranged in use to receive (*account and award components in the p2p network, it would haven obvious that there are data receiving means for tracking data, page 2, Part III, Details of Point System*):

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i) data items or from a particular user for provision upon request to users (*the account component keeps track of the contribute made for data provision to user, the contribute made associates with the data items and the data defining access to the data item, Page 1, right Col. Part II, lines 3-4*); and

i) the data items for provision to the users (*the account component keeps track of the contribute made for data provision to user, the contribute made associates with the data items and the data defining access to the data item, Page 1, right Col. Part II, lines 3-4*); and

ii) for at least one user, respective service level data usable to determine a level of service to be provided to the users (*maintain the level of service provide to the user, e.g. basic, enhanced, premium, Page 1, right Col. part II, lines 13-21, Fig 1 & 4*);

data receiving means arranged in use to receive (*account and award components in the p2p network, it would haven obvious that there are data receiving means for tracking data, page 2, Part III, Details of Point System*):

a processor arranged in use to perform the following steps (*it is obvious that a processor is in the sharer program for the peer to peer system, Page 1, left Col. Part I, lines 1-10*):

i) change the respective service level data for the users from which data items were received in dependence upon received rating data relating to the received data items (*changing the level of service from basic to enhanced or premium based on the pointes accumulated, the points associate with rating, Page 2, right Col. Part III, Accounting Component, lines 6-7, Fig 4*); and

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ii) provide service to said particular user in dependence on the service level data for said particular user (*provide the service to the user based on the level of service, Page 4, left Col. lines 14-27, Fig 4*).

Gupta does not explicitly disclose

rating data from the particular user relating to data items provided to the users;

a data store storing.

However, Moskowitz discloses rating data from the particular user relating to data items provided to the users (*reviewers are assigned rating by based upon other members, the reviewer and members are correspond to the users relating to the data items, [0053], lines 18-30*);

a data store storing (*Fig 1, 106, Storage*).

It would have been obvious to one skilled in the art at the time of the invention to modify the user rating techniques of Moskowitz in the data provision system of Gupta in order to improve communication management within a peer to per network data processing system (*Moskowitz, [0008]*).

With respect to claim 27, Gupta discloses a data provisioning method (*frequent sharer program for peer to peer systems, peer to peer system associates with data provision, Page 1, Title*), comprising the steps:

receiving data items from a particular user for provision to users (*receiving contribution from the user, the contribution association with data item associate with access, Page 2, right Col. Part III, Accounting Component, lines 5-6*);

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storing the data items for provision to the users (*the account component keeps track of the contribute made for data provision to user, the contribute made associates with the data items and the data defining access to the data item, Page 1, right Col. Part II, lines 3-4*);

maintaining, for at least one user, respective service level data usable to determine a level of service to be provided to the users *maintain the level of service provide to the user, e.g. basic, enhanced, premium, Page 1, right Col. part II, lines 13-21, Fig 1 & 4*);

changing the respective service level data for the users from which data items were received in dependence upon received rating data relating to the received data items (*changing the level of service from basic to enhanced or premium based on the pointes accumulated, the points accumulated associate with rating, Page 2, right Col. Part III, Accounting Component, lines 6-7, Fig 4*); and

providing service to said particular user in dependence on the service level data for said particular user (*provide the service to the user based on the level of service, Page 4, left Col. lines 14-27, Fig 4*),

wherein each data item has a property having a value (*data associates with the point, and the point correspond to the value, Page 1, right Col. Part II, lines 3-10*), and the service level data comprises a content access value relating to the property (*the service level associates with earned points, the service level corresponds to the access value, Page 1, right Col. Part II, lines 12-19, Fig 4*), wherein the servicing step comprises determining a sub-set of the data items in dependence on the respective values (*the service provide associates with the data is depend on points collected based on the award component, Page 4, left Col, lines 14-27, Fig 4*), and

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providing the sub-set to said particular user (*data associates with the corresponding service level is provided to the user, Page 4, left Col., lines 14-17*).

Gupta does not explicitly disclose

receiving rating data from said particular user relating to data items provided to the users.

However, Moskowitz discloses receiving rating data from said particular user relating to data items provided to the users (*reviewers are assigned rating by based upon other members, the reviewer and members are correspond to the users relating to the data items, [0053], lines 18-30*).

It would have been obvious to one skilled in the art at the time of the invention to modify the user rating techniques of Moskowitz in the data provision method of Gupta in order to improve communication management within a peer to per network data processing system (*Moskowitz, [0008]*).

With respect to claim 28, Gupta discloses a data provisioning method (*frequent sharer program for peer to peer systems, peer to peer system associates with data provision, Page 1, Title*), comprising the steps:

storing the data defining access to data items for provision to the users (*the account component keeps track of the contribute made for data provision to user, the contribute made associates with the data items and the data defining access to the data item, Page 1, right Col. Part II, lines 3-4*);

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maintaining, for one or more users, respective service level data usable to determine a level of service to be provided to the users (*maintain the level of service provide to the user, e.g. basic, enhanced, premium, Page 1, right Col. part II, lines 13-21, Fig 1 & 4*);

changing the respective service level data for the users from which data defining access to data items were received in dependence upon received rating data relating to the received data defining access to data items (*changing the level of service from basic to enhanced or premium based on the pointes accumulated, the points accumulated associate with rating, Page 2, right Col. Part III, Accounting Component, lines 6-7, Fig 4*); and

providing service to said particular user in dependence on the service level data for said particular user(*provide the service to the user based on the level of service, Page 4, left Col. lines 14-27, Fig 4*).

Gupta does not explicitly disclose

receiving data defining access to data items from a particular user for provision to users;

receiving rating data from said particular user relating to the data defining access to the data items provided to the users.

However, Moskowitz discloses receiving data defining access to data items from a particular user for provision to users (*members of the group define whether other user can access the data, [0046], lines 4-7*);

receiving rating data from said particular user relating to the data defining access to the data items provided to the users (*reviewers are assigned rating by based upon other members,*

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the reviewer and members are correspond to the users relating to the data items, [0053], lines 18-30).

It would have been obvious to one skilled in the art at the time of the invention to modify the user rating techniques of Moskowitz in the data provision method of Gupta in order to improve communication management within a peer to per network data processing system (*Moskowitz, [0008]*).

With respect to claim 29, Gupta discloses a data provisioning system (*frequent sharer program for peer to peer systems, peer to peer system associates with data provision, Page 1, Title*), comprising:

data receiving means arranged in use to receive (*account and award components in the p2p network, it would haven obvious that there are data receiving means for tracking data, page 2, Part III, Details of Point System*):

i) the data defining access to data items for provision to the users (*the account component keeps track of the contribute made for data provision to user, the contribute made associates with the data items and the data defining access to the data item, Page 1, right Col. Part II, lines 3-4*); and

ii) for at least one user, respective service level data usable to determine a level of service to be provided to the users (*maintain the level of service provide to the user, e.g. basic, enhanced, premium, Page 1, right Col. part II, lines 13-21, Fig 1 & 4*);

a processor arranged in use to perform the following steps (*it is obvious that a processor is in the sharer program for the peer to peer system, Page 1, left Col. Part I, lines 1-10*):

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i) change the respective service level data for the users from which data defining access to data items were received in dependence upon received rating data relating to the received data defining access to data items (*changing the level of service from basic to enhanced or premium based on the pointes accumulated, the points associate with rating, Page 2, right Col. Part III, Accounting Component, lines 6-7, Fig 4*); and

ii) provide service to said particular user in dependence on the service level data for said particular user (*provide the service to the user based on the level of service, Page 4, left Col. lines 14-27, Fig 4*).

Gupta does not explicitly disclose

data defining access to data items from a particular user for provision upon request to users; and

rating data from the particular user relating to the data defining access to data items provided to the users; and

a data store storing.

However, Moskowitz discloses data defining access to data items from a particular user for provision upon request to users (*members of the group define whether other user can access the data, [0046], lines 4-7*); and

rating data from the particular user relating to the data defining access to data items provided to the users (*reviewers are assigned rating by based upon other members, the reviewer and members are correspond to the users relating to the data items, [0053], lines 18-30*); and

a data store storing (*Fig 1, 106, Storage*).

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It would have been obvious to one skilled in the art at the time of the invention to modify the user rating techniques of Moskowitz in the data provision method of Gupta in order to improve communication management within a peer to per network data processing system (*Moskowitz, [0008]*).

With respect to claim 30, Gupta discloses a data provisioning method (*frequent sharer program for peer to peer systems, peer to peer system associates with data provision, Page 1, Title*), comprising the steps:

storing the data defining access to data items for provision to the users (*the account component keeps track of the contribute made for data provision to user, the contribute made associates with the data items and the data defining access to the data item, Page 1, right Col. Part II, lines 3-4*);

maintaining, for at least one user respective service level data usable to determine a level of service to be provided to the users (*maintain the level of service provide to the user, e.g. basic, enhanced, premium, Page 1, right Col. part II, lines 13-21, Fig 1 & 4*);

changing the respective service level data for the users from which data defining access to data items were received in dependence upon received rating data relating to the received data defining access to data items (*changing the level of service from basic to enhanced or premium based on the pointes accumulated, the points accumulated associate with rating, Page 2, right Col. Part III, Accounting Component, lines 6-7, Fig 4*); and

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providing service to said particular user in dependence on the service level data for said particular user (*provide the service to the user based on the level of service, Page 4, left Col. lines 14-27, Fig 4*),

wherein each set of data defining access to a data item has a property having a value (*data associates with the point, and the point correspond to the value, Page 1, right Col. Part II, lines 3-10*), and the service level data comprises a content access value relating to the property (*the service level associates with earned points, the service level corresponds to the access value, Page 1, right Col. Part II, lines 12-19, Fig 4*), wherein the servicing step comprises determining a sub-set of the data defining access to data in dependence on the respective values (*the service provide associates with the data is depend on points collected based on the award component, Page 4, left Col, lines 14-27, Fig 4*), and providing the sub- set to said particular user (*data associates with the corresponding service level is provided to the user, Page 4, left Col., lines 14-17*).

Gupta does not explicitly disclose

receiving data defining access to data items from a particular user for provision to users;

receiving rating data from said particular user relating to data items provided to the users.

However, Moskowitz discloses receiving data defining access to data items from a particular user for provision to users (*members of the group define whether other user can access the data, [0046], lines 4-7*);

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receiving rating data from said particular user relating to data items provided to the users *(reviewers are assigned rating by based upon other members, the reviewer and members are correspond to the users relating to the data items, [0053], lines 18-30).*

It would have been obvious to one skilled in the art at the time of the invention to modify the user rating techniques of Moskowitz in the data provision method of Gupta in order to improve communication management within a peer to per network data processing system *(Moskowitz, [0008]).*

With respect to claims 2 and 16, Gupta discloses wherein the service level data comprises a proportion value *(data associates with the point, and the point correspond to the value, Page 1, right Col. Part II, lines 3-10)*, and wherein the servicing step comprises determining a sub-set of the data items or data defining access to data items corresponding to a proportion of the available data items or data defining access to data items substantial corresponding to the proportion value *(the service provide associates with the data is depend on points collected based on the award component, Page 4, left Col, lines 14-27, Fig 4,);* and providing the sub-set to the requesting user *(data associates with the corresponding service level is provided to the user, Page 4, left Col., lines 14-17).*

With respect to claims 3 and 17, Gupta discloses wherein each data item or set of data defining access to a data item has a property having a value *(data associates with the point, and the point correspond to the value, Page 1, right Col. Part II, lines 3-10)*, and the service level data comprises a content access value relating to the property *(the service level associates with*

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earned points, the service level corresponds to the access value, Page 1, right Col. Part II, lines 12-19, Fig 4), wherein the servicing step comprises determining a sub-set of the data items or data defining access to data items in dependence on the respective values (the service provide associates with the data is depend on points collected based on the award component, Page 4, left Col, lines 14-27, Fig 4,), and providing the sub-set to the requesting user (data associates with the corresponding service level is provided to the user, Page 4, left Col., lines 14-17).

With respect to claims 4 and 18, Gupta does not explicitly disclose wherein the property values and content access values are times and/or dates.

However, Moskowitz discloses wherein the property values and content access values are times and/or dates (*the membership is associated with a period of time, [0037]*).

It would have been obvious to one skilled in the art at the time of the invention to modify the user rating techniques of Moskowitz in the data provision method of Gupta in order to improve communication management within a peer to per network data processing system (*Moskowitz, [0008]*).

With respect to claims 5 and 19, Gupta does not explicitly disclose wherein the property values and content access values are geographical positions.

However, Moskowitz discloses wherein the property values and content access values are geographical positions (*the profile associates with geographical location, [0034], lines 14-19*).

It would have been obvious to one skilled in the art at the time of the invention to modify the user rating techniques of Moskowitz in the data provision method of Gupta in order to

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improve communication management within a peer to per network data processing system
(Moskowitz, [0008]).

With respect to claims 6 and 20, Gupta discloses wherein the service level data is a transmission rate value (*peer bandwidth is associated with the point system, Page 1, right Col, Part II, lines 7-8*), and the servicing step comprises determining a set of data items or data defining access to data items which meet the request (*the service provide associates with the data is depend on points collected based on the award component, Page 4, left Col, lines 14-27, Fig 4.*), and providing the set to the user at a transmission rate in dependence on the transmission rate value (*data associates with the corresponding service level is provided to the user, Page 4, left Col., lines 14-17*).

With respect to claims 7 and 21, Gupta discloses wherein the changing step further comprises receiving requests for specific data items or data defining access to data items from users (*serve hard to find or unpopular content, Page 1, right Col. Part II, lines 8-10*), and changing the service level data for the user from which the requested data item or data defining access to data was received (*changing the level of service from basic to enhanced or premium based on the pointes accumulated, Page 2, right Col. Part III, Accounting Component, lines 6-7, Fig 2*).

With respect to claims 8 and 22, Gupta discloses wherein the changing step further comprises monitoring the time or date at which a first data item or data defining access to a data

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item is received in relation to the time or date a second data item or data defining access to a data item is received (*keep track of the contribution, which associate with different factors, Page 1, right Col. Part II, lines 5-10, Fig 2*), and changing the service level data of the user from the which first data item or data defining access to a data item was received in dependence on the difference between the times and/or dates (*changing the level of service from basic to enhanced or premium based on the pointes accumulated, the points associate with different factors, Page 2, right Col. Part III, Accounting Component, lines 6-7, Fig 2*).

With respect to claims 9 and 23, Gupta discloses wherein the changing step further comprises monitoring the time since the receipt of a data item or data defining access to a data item (*keep track of the contribution, which associate with different factors, Page 1, right Col. Part II, lines 5-10, Fig 2*), and changing the service level data of the user from which the data item or data defining access to the data item was received in dependence on the monitored time(*changing the level of service from basic to enhanced or premium based on the pointes accumulated, the points associate with different factors, Page 2, right Col. Part III, Accounting Component, lines 6-7, Fig 2*).

With respect to claims 10 and 24, Gupta disclose the step of permitting a user to perform manipulations of the stored content items or data defining access to content items in dependence on the user's service level data (*user can manipulate points collection by unitizing different contribution factors, e.g. file size, type of file, Page 1, right Col. Part II, lines 5-10, Fig 2*).

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With respect to claim 11, Gupta disclose collectively performed by at least a sub-set of peers within a peer to peer network (*Peer to Peer system, Page, Title*).

With respect to claims 12 and 26, Gupta disclose wherein the rating is weighted according to the service level value of the rating user (*points is weighted according to different factors associating with the user, and the points correspond to the rating, Page 1, right Col. Part II, lines 5-10*).

With respect to claim 13, Gupta does not explicitly disclose a tangible computer medium containing a computer program or suite of computer programs arranged such that when executed by a computer system or a plurality of computer systems it/they cause the computer system or systems to perform the method of claim 1.

However, Moskowitz discloses a tangible computer medium containing a computer program or suite of computer programs arranged such that when executed by a computer system or a plurality of computer systems it/they cause the computer system or systems to perform the method of claim 1 (*network of data processing system with storage and various of devices, [0021], Fig 1*).

It would have been obvious to one skilled in the art at the time of the invention to modify the user rating techniques of Moskowitz in the data provision method of Gupta in order to improve communication management within a peer to per network data processing system (*Moskowitz, [0008]*).

Response to Arguments

9. Applicant's arguments filed on 11/24/2008, with respect to amended claims 11-13, 15-24, 26-27, cancelled claims 14, 25, and newly added claims 28-30 have been fully considered, and are moot in view of the new ground(s) of rejection.

Applicant argues that the claims amendments would overcome the claim objections and rejections made under 35 USC 112, second paragraph in page 12 of the Remarks. However, the amendments filed are unable to overcome the claim objections for lack of antecedent basis and informalities. The amended claims still remained indefinite. See the claim objections and rejection made under 35 USC 112, second paragraph for detail.

Because the claims have amended, further consideration and search were made, and a new reference, Moskowitz, is applied to address the amended claim limitations. Because and Gupta and Moskowitz references both directed to peer to peer computing, and both are from the same field of endeavor, it would have been obvious to one skilled in the art at the time of the invention to combine their teachings to improve communication management.

Therefore, it is believed that all claim limitations have been properly addressed, see the claim analysis above for detail.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHELLE OWYANG whose telephone number is (571)270-1254. The examiner can normally be reached on Monday-Friday (Alternate Fridays Off): 8am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, TIM VO can be reached on 571-272-3642. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Kuen S Lu/
Primary Examiner, Art Unit 2169

/M. O./
Examiner, Art Unit 2168